

REMARKS

Claims 13 through 24, and 26 through 37 are pending in this Application. Claim 25 has been cancelled without prejudice or disclaimer. The specification and claims 13, 14, 18, 24, 26, 27, and 31 have been amended. New claim 37 has been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, original claim 18, FIG. 5, ¶¶ [0046] through [0057], [0061], and [0062] of the corresponding US Pub. No. 2005/0102301 Applicant submits that the present Amendment does not generate any new matter issue.

Personal Interview of January 19, 2010.

Applicant expresses appreciation for the Examiner's courtesy in granting and conducting a personal interview on January 19, 2010. During the interview, the Examiner indicated that the present claim amendments would overcome the objection and rejections of record. It is with that understanding that the present Amendment is submitted.

Objection to the Specification

The Examiner asserted that the specification lacked sufficient antecedent basis for the claim expression "computer-readable medium." This objection is traversed.

Literal support is not required by the statute. *Univ. of Rochester v. G.D. Searle & Co.*, 358 F.3d 916, 923 (Fed.Cir.2004); *Regents of the Univ. of Cal. v. Eli Lilly & Co.*, 119 F.3d 1559, 1566-67 (Fed.Cir.1997). An applicant need not utilize any particular form of disclosure to describe the subject matter claimed; the description need only allow persons of ordinary skill in the art to recognize that he or she invented what is claimed. *Carnegie Mellon Univ. v. Hoffmann-*

La Roche Inc., 541 F.3d 1115, 1122 (Fed.Cir.2008) (quoting *In re Alton*, 76 F.3d 1168, 1172 (Fed.Cir.1996)).

In applying the above legal tenets to the exigencies of this case, Applicant submits that the imposed objection is not factually accurate, since the specification describes computer-readable signals each of which constitutes a "computer-readable medium." At any rate, the recitation "computer-readable medium" has been amended into "computer-readable storage medium" which is fully supported by "memory" recited in the originally filed disclosure. Applicant respectfully requests withdrawal of the objection of the specification.

Claim 25 was rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter.

In stating the rejection, the Examiner asserted that claim 25 recites apparatus that is not inherently directed towards a machine or article or manufacture. This rejection is traversed.

In order to expedite prosecution, method claim 25 has been cancelled without prejudice or disclaimer, thereby rendering the rejection moot. Applicant therefore submits that the imposed rejection of claim 25 under 35 U.S.C. §101 is not legally viable and solicits withdrawal thereof.

Claims 13 through 20 and 24 through 26 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Sirosh* (US 6,226,408, "*Sirosh*") in view of *Almasi et al.* (US 6,260,036, "*Almasi*").

In stating the rejection, the Examiner asserted that one having ordinary skill in the art would have been led to modify *Sirosh*'s multidimensional data clustering system by including

Almasi's mechanism of interleaving of a first process with a second process via updating a first coefficient to increase system efficiency via learning. Applicant respectfully traverses this rejection.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically, independent claims 13, 24, and 26 recite, *inter alia*: "wherein the first coefficient is limited to a range [0,1], the first neighborhood function gives only positive values, and the second neighborhood function gives **negative** values in a distance range between 0 and 1." These features are neither disclosed nor suggested by either *Sirosh* or *Almasi*, as acknowledged by the Examiner during the personal interview.

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicant does not agree that the requisite realistic motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicant, therefore, submits that the imposed rejection of claims 13 through 20, and 24 through 26 under 35 U.S.C. §103(a) for obviousness based on *Sirosh* in view of *Almasi* is not factually or legally viable and, hence, solicits withdrawal thereof.

Claims 21 through 23, and 34 through 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Sirosh and Almasi*, and further in view of *Guiver et al.* (US 5,809,490, “”).

The rejection is respectfully traversed.

Specifically, claims 21 through 23 depend from claim 13, and claims 34 through 36 depend from claim 26. Applicant incorporates herein the arguments previously advanced in

traversing the imposed rejection of independent claims 13 and 26 under 35 U.S.C. §103(a) for obviousness predicated upon *Sirosh* in view of *Almasi*. The additional reference to *Guiver* does not cure the previously argued deficiencies in the attempted combination of *Sirosh* and *Almasi*. Accordingly, even if the applied references were combined as proposed by the Examiner, and again Applicant does not agree that the requisite fact-based motivation has been established, the claimed inventions would not result. See *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, *supra*, Applicant therefore submits that the above-identified rejection encompassing claims 21 through 23, and 34 through 36 under 35 U.S.C. 103(a) are not factually or legally viable and, hence, solicits withdrawal thereof.

Based upon the foregoing, it is apparent that the imposed objection and rejections have been overcome, and, that all active claims are in condition for immediate allowance. Favorable consideration therefore is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at 703-822-7186 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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